

ing only to a temporary disability, and matter in bar and matter in abatement cannot stand together;¹⁴ and a number of other similar cases will be found in the English books. It has also been held, that each plea must contain in itself sufficient matter to bar the plaintiff's declaration. One plea cannot be taken in to help or destroy another, but every plea must stand or fall by itself, *Grills v. Manneil*, Willes, 380.¹⁵

This section does not extend to an action or information upon a penal statute, *Law v. Crowther*, 2 Wils. 21; *Heyrick v. Foster*, 4 T. R. 701. So too it is said that, under it, a defendant cannot plead double to the suit of the Crown without leave of the Attorney General, *R v. Archbp. of York*, Willes, 533. But this privilege would hardly be considered as extending to the State. The provision of the 5th section as to costs, &c. has never been in use in the State, nor in view of our Acts of Assembly on the subject did the 6th section extend. These are not introduced here.

The 7th section extended with the first.¹⁶ As to penal actions the 4th section of 4 Geo. 2, c. 26, requiring all proceedings to be in English, was declared in *Middleton v. Wynn*, Willes, 597, to have the effect of extending all Statutes of Jeofails to penal actions.

IX. & X. The views mentioned in the 8th section have not been usual in the State, being supplied by our practice of locations on warrant of resurvey. As to attainments, see 11 Geo. 2 c. 19, s. 11.¹⁷

XI. The Code, Art. 75, sec. 31¹⁸ (1852, ch. 177, sec. 11), provides that nothing in the preceding sections of that article relating to amendments shall affect any plea of limitations, in abatement, to the jurisdiction, or other dilatory plea, on the principle, that such pleas are not for the advancement of justice. The old particularity is therefore required in them.

This section of the Statute has been construed to extend to criminal proceedings, *R. v. Grainger*, 3 Burr. 1617; and to a plea by terre-tenants in

¹⁴ See note 18 infra.

¹⁵ *Consolidation Coal Co. v. Shannon*, 34 Md. 144; *Willing v. Bozman*, 52 Md. 44; *Glenn v. Williams*, 60 Md. 93; *Lake v. Thomas*, 84 Md. 609; *Carroll v. Bowen*, 113 Md. 154.

¹⁶ See Code 1911, Art. 5, sec. 80; *Avirett v. State*, 76 Md. 515; *Poe's Pleading*, sec. 587.

¹⁷ As to section 10 see particularly note 15 to that Statute.

¹⁸ Code 1911, Art. 75, sec. 43. See as to dilatory pleas, *Poe's Pleading*, ch. 24.

Great accuracy and precision are required in a plea in abatement. It must be certain to every intent and must go to the whole cause of action. *Cruzen v. McKaig*, 57 Md. 454; *B. & O. R. R. Co. v. Ritchie*, 31 Md. 191.

A plea in abatement cannot be filed with a plea in bar. Nor can it be filed after a plea in bar unless the facts relied on to abate the action arise after the filing of the plea in bar, and in such case the plea should so allege. Also a plea in abatement is waived by the filing of a subsequent plea in bar. *Young v. Citizens' Bank*, 31 Md. 66; *Webster v. Byrnes*, 32 Md. 86; *Cruzen v. McKaig*, *supra*; *Glenn v. Williams*, 60 Md. 124; *Spencer v. Patten*, 84 Md. 414; *Waggaman v. Nutt*, 88 Md. 275; *Carroll v. Bowen*, 113 Md. 154.